

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

United States of America

v.

Criminal No. 13-cr-112-01-LM

Alexander Guzman

O R D E R

Both the United States Attorney and counsel for Mr. Guzman agree that a determination of mental competency pursuant to 18 U.S.C. § 4241 is warranted here.¹ Based upon defense counsel's representations as to his interactions with Mr. Guzman and the confidential psychological report prepared by Dr. Eric G. Mart (doc. no. 14), I find reasonable cause to believe that Mr. Guzman may presently be suffering from a mental disease or defect that could affect his competency to understand the nature and consequences of the sentencing proceedings or to assist his counsel during the sentencing proceedings.

¹ Because Mr. Guzman is here via Fed. R. Crim. P. 20, the government asserts that the competency determination should be made in the transferor district, the Southern District of Texas, and relies on United States v. Torres, 399 F. Supp. 2d 549 (S.D.N.Y. 2005). I find the Torres case distinguishable as the competency issues here appear to be of a recent vintage -- and may be related to severe depression resulting from Mr. Guzman's current predicament. Indeed, Dr. Mart is of the view that, with treatment, Mr. Guzman could be restored to competency "fairly quickly." Mr. Guzman's symptoms do not appear to implicate the validity of the charges -- as was the case in Torres.

This order shall not be construed to make any finding undermining the validity (knowledge, voluntariness, competency) of the defendant's consent to Rule 20 transfer.

Pursuant to 18 U.S.C. §§ 4241(b) and 4247(b), the defendant is committed to the custody of the Attorney General for a period not to exceed thirty days for placement in a suitable facility where an examination of the defendant's mental condition can be conducted. The director of the facility may apply for a reasonable extension as provided by 18 U.S.C. § 4247(b).

The examining officials shall prepare a report of their findings pursuant to 18 U.S.C. § 4247(b), which report shall be filed with this court.

The Court requests prior notification of the date of the defendant's return to this jurisdiction after the examination so that a prompt competency hearing and detention hearing may be held.

Under the Speedy Trial Act, 18 U.S.C. § 3161(b)(1)(A), the time to determine mental competency of a defendant is excludable.

SO ORDERED.



Landya McCafferty
United States District Judge

May 19, 2014

cc: Paul J. Garrity, Esq.
John J. Farley, Esq.
United States Marshal
United States Probation